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Of Attorneys for Defendants Zuru, LLC, and
Nicholas Mowbray, individual; and Zuru, Inc.
and Zuru, Ltd. (Hong Kong); and Zuru, Ltd.
(New Zealand)

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

ZING TOYS, INC., an Oregon corporation,

Plaintiff,

vs.

ZURU, LLC, an Oregon limited liability
company, ZURU LIMITED (Hong Kong),
ZURU LIMITED (New Zealand), ZURU,
INC., ANNA JANE MOWBRAY, an
individual; MATTHEW PETER
MOWBRAY, an individual; and NICHOLAS
JAMES MOWBRAY, an individual; and
JOHN DOES 1 – 10,

Defendants.

Case No. CV10-863-MO

**LEGAL MEMORANDUM IN SUPPORT
OF ZURU, LTD.'S (NEW ZEALAND)
MOTIONS TO DISMISS PURSUANT
TO Fed. R. Civ. P. 12(b)(2).**

MOTION TO DISMISS ZURU, LTD. FOR LACK OF PERSONEL JURISDICTION

(FED. R. CIV.P. 12 (b)(2))

I. FACTS

**Zuru, Ltd., a New Zealand company with no contacts with the United States, nor any
contact with the Plaintiff, is not subject to personal jurisdiction in this matter.**

**MEMORANDUM IN SUPPORT OF ZURU, LTD.'S (NEW ZEALAND)
MOTIONS TO DISMISS**

Zuru, Ltd. (New Zealand) is physically located in New Zealand and duly organized under its laws. Zuru, Ltd. (New Zealand) was initially formed with the principle purpose of transacting business solely in New Zealand. All primary functions of Zuru, Ltd. (New Zealand) have been transferred to Zuru Inc. Zuru, Ltd. (New Zealand) has been inactive for years. It has no office in New Zealand, utilizing a residence for receiving mail. It does not engage in any manufacturing or marketing activities any where in the world, specifically not in the United States. Zuru, Ltd. (New Zealand) has never earned any business income from any activity or contact with the United States. It has never held assets or employees in the United States. Finally, Zuru, Ltd. (New Zealand) has never contracted with plaintiff or engaged in any business activity with plaintiff. Zuru, Ltd. (New Zealand) is not a party to any of the alleged conduct currently set out in plaintiff's *Complaint* or *Amend Complaint*. See, *Declaration Matthew Mowbray*.

II. APPLICABLE LAW

The 9th Circuit applies a three prong test for determining a claim of specific personal jurisdiction. The test requires: 1) the defendant purposefully direct activities with the forum or resident; 2) the claim arises out of the activity; and 3) exercise of jurisdiction must comport with fair play and substantial justice. See *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802 (9th Cir., 2004), citing *Lake v. Lake*, 817 F.2d 1416, 1421 (9th Cir.1987). Incidental or inevitable contact with the forum state is not enough. To satisfy the jurisdictional test, the foreign defendant must engage in activity purposefully directed toward the forum state. See *Asahi Metal Industry Co. v. Superior Court*, 480 U.S. 102 (1987) (Japanese manufacturer not subject to U.S. personal jurisdiction where lacking activity purposefully directed toward forum state.); *Smith v. Hobby Lobby Stores*, 968 F.Supp. 1356 (W.D.Ark.1997) (no jurisdiction over Hong Kong defendant who advertised in trade journal posted on the Internet without sale of goods or services in Arkansas).

Zuru, Ltd. (New Zealand) does not engage in any business activity directed towards the United States or its citizens. Zuru, Ltd. (New Zealand) has no assets or employees in the United States, nor does it earn any business income from business activity in the United States. In fact, it has sat inactive for years prior to the activities alleged in the instant law suit. Furthermore, Zuru, Ltd. (New Zealand) is not, and has never been a party to any activity for which this matter is based nor any joint venture agreement, distribution agreement or any other sort of business agreement with Zing Toys, Inc. or any other Zing Toy business entity in the United States or elsewhere. This claim does not arise out of any Zuru, Ltd. (New Zealand) activity directed towards the forum nor the Plaintiff. Exercising jurisdiction over Zuru, Ltd. (New Zealand), a non-U.S. company, under these circumstances would be unreasonable and would violate fair play and justice.

III. CONCLUSION

In view of Zuru, Ltd.'s (New Zealand) complete lack of contacts with the United State nor with the Plaintiff, Zuru, Ltd. (New Zealand) respectfully moves the Court for dismissal due to lack of personal jurisdiction.

DATED this 21st day of December, 2010.

THE GRIFFIN LAW GROUP

s/ Philip S. Griffin

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